

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. H501849**

**ANTHONY STEEN,
EMPLOYEE**

CLAIMANT

**GARLAND COUNTY SHERIFF'S OFFICE,
EMPLOYER**

RESPONDENT

**ASSN. OF ARKANSAS COUNTIES
WORKERS' COMPENSATION TRUST/
AAC RISK MGT. SERVICES, INC.,
CARRIER/TPA**

RESPONDENT

OPINION FILED MARCH 20, 2026

Pursuant to the parties' mutual agreement and in lieu of a hearing this claim was submitted for decision based on the stipulated record and briefs filed December 23, 2025, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Mike Pickens, Little Rock, Pulaski County, Arkansas.

The claimant is represented by the Honorable Gregory R. Giles, Moore, Miles & Matteson, L.L.P., Texarkana, Miller County, Arkansas.

The respondents are represented by the Honorable Carol Lockard Worley and the Honorable Jarrod S. Parrish, Worley, Wood & Parrish, P.A., Little Rock, Pulaski County, Arkansas.

INTRODUCTION

On October 21, 2025, the above-styled claim came before Administrative Law Judge (ALJ) Mike Pickens for a prehearing conference. The claimant was represented by the Honorable Gregory R. Giles, and the respondents were represented by the Honorable Carol Lockard Worley. In lieu of a hearing the parties agreed to submit the issues to be litigated on the parties' blue-backed stipulated facts, prehearing questionnaire responses, briefs, and agreed exhibits which, along with the October 23, 2025, prehearing order, shall constitute the record in this matter.

In addition to the parties' mutually agreed stipulated facts document contained in the record as Joint Exhibit 1, pages 1-3, the parties have agreed to the following stipulations:

1. The Arkansas Workers' Compensation Commission (the Commission) has jurisdiction over this claim.
2. The employer/employee/carrier-TPA relationship existed at all relevant times including March 21, 2025, when the claimant sustained an admittedly compensable injury in the form of a stroke/brain bleed for which the respondents paid medical and indemnity benefits.
3. The claimant's average weekly wage (AWW) was \$1,037.34, which corresponds to weekly indemnity rates of \$692.00 for temporary total disability (TTD), and \$519.00 for permanent partial disability (PPD) benefits.
4. The parties specifically reserve any and all other issues for future litigation and/or determination.

(Commission Exhibit 1 at 2). Pursuant to the parties' mutual agreement, the issues litigated on the aforementioned record are:

1. Whether the respondents controverted this claim.
2. If the respondents are deemed to have controverted this claim, whether and to what extent, if any, the claimant's attorney is entitled to a controverted fee based on these facts.

(Comms'n Ex. 1 at 2).

The claimant contends he suffered a compensable injury to his brain, specifically a stroke/brain bleed, which occurred during a deputy sheriff qualification/training exercise in which he was sprayed in his face. The claimant contends the medical treatment he has received to date has been related to and reasonably necessary for treatment of his compensable injury, and that he is entitled to additional medical treatment at the respondents' expense. The claimant contends he is entitled to TTD benefits from March 22, 2025, to a date yet to be determined. The claimant contends further that the respondents initially controverted this claim which required him to hire

an attorney to persuade the respondents to pay him any workers' compensation benefits and, therefore, his attorney is entitled to the maximum statutory attorney's fee on the controverted indemnity benefits. The claimant specifically reserves any and all other issues for future determination and/or litigation. (Comms'n Ex. 1 at 2-3; Claimant's Exhibit 3 at 1-4).

The respondents contend they did not controvert this claim since the claimant initially failed and/or refused to provide them any medical documentation relating his stroke/brain bleed to the subject March 21, 2025, incident until after the claimant's attorney eventually provided them medical documentation supporting causation at which time the respondents accepted the claim as compensable and committed to pay all appropriate medical and indemnity benefits. The respondents contend they never controverted this claim since it is the claimant's responsibility to obtain and provide them the necessary medical documentation relating the work incident to his alleged injury. The respondents contend that once the claimant's attorney provided them the required and necessary medical documentation relating his injury to the subject work incident, initiated an independent medical records review which led to their accepting the claim as compensable. The respondents reserve the right to amend and supplement their contentions after the completion of any and all necessary investigation and discovery, and they specifically reserve any and all other issues for future determination and/or litigation. (Comms'n Ex. 1 at 3; Respondents' Exhibit 3 at 1-8).

STATEMENT OF THE CASE

In addition to the standard stipulations set forth above, the parties mutually agreed to the relevant facts enumerated in the "Proposed Stipulated Facts" document which they both signed

and which is contained in the record as Joint Exhibit 1 at 1-3. I hereby incorporate these stipulated facts as set forth word-for-word herein. These stipulated facts will be addressed in more detail as necessary in the “Discussion” section of this opinion, *infra*.

DISCUSSION

The Burden of Proof

When deciding any issue the ALJ and the Commission shall determine, on the basis of the record as a whole, whether the party having the burden of proof has established it by a preponderance of the evidence. *Ark. Code Ann.* § 11-9-704(c)(2) (2025 Lexis Replacement). The claimant has the burden of proving by a preponderance of the evidence he is entitled to benefits. *Stone v. Patel*, 26 Ark. App. 54, 759 S.W.2d 579 (Ark. App. 1998). Here, of course, the burden of proof is on the claimant to prove the respondents controverted his claim and, therefore, his attorney is entitled to a fee.

Ark. Code Ann. Section 11-9-704(c)(3) (2025 Lexis Repl.) states that the ALJ, the Commission, and the courts “shall strictly construe” the Act, which also requires them to read and construe the Act in its entirety, and to harmonize its provisions when necessary. *Farmers Coop. v. Biles*, 77 Ark. App. 1, 69 S.W.2d 899 (Ark. App. 2002). In determining whether the claimant has met her burden of proof, the Commission is required to weigh the evidence impartially without giving the benefit of the doubt to either party. *Ark. Code Ann.* § 11-9-704(c)(4) (2025 Lexis Repl.); *Gencorp Polymer Products v. Landers*, 36 Ark. App. 190, 820 S.W.2d 475 (Ark. App. 1991); *Fowler v. McHenry*, 22 Ark. App. 196, 737 S.W.2d 633 (Ark. App. 1987).

All claims for workers' compensation benefits must be based on proof. Speculation and conjecture, even if plausible, cannot take the place of proof. *Ark. Dep't of Corrections v. Glover*, 35 Ark. App. 32, 812 S.W.2d 692 (Ark. App. 1991); *Deana Constr. Co. v. Herndon*, 264 Ark. 791, 595 S.W.2d 155 (1979). It is the Commission's exclusive responsibility to determine the credibility of all the evidence in the record, including witness testimony. *Whaley v. Hardees*, 51 Ark. App. 116, 912 S.W.2d 14 (Ark. App. 1995). The Commission is not required to believe either any facts contained in the record including but not limited to witness testimony, but may accept and translate into findings of fact those portions of the record testimony it deems believable. *See, McClain v. Texaco, Inc.*, 29 Ark. App. 218, 780 S.W.2d 34 (Ark. App. 1989); *Farmers Coop. v. Biles*, *supra*.

Controversion

Pursuant to Arkansas workers' compensation law a claim is considered "controverted" for the purpose of deeming the respondents liable for payment of an attorney's fee when the respondents dispute the claim in whole or in part. Arkansas law concerning controversion is long-standing and the subject of a significant amount of caselaw. While most of the informative, instructive, and significant caselaw predates the passage of Act 796 of 1993, the applicable law with respect to determining when the respondents have controverted a claim for purposes of paying an attorney's fee, what factors should be considered in making the determination, and what the underlying purposes are for making the determination remain the same.

Whether the respondents have controverted a claim and should be deemed responsible for payment of an attorney's fee is a question of fact for the Commission to decide on a case-by-case basis and is, therefore and obviously, dependent on the specific facts and circumstances of each

Anthony Steen, AWCC No. H501849

case. *Lee v. Alcoa Extrusion, Inc.*, 89 Ark. App. 228, 201 S.W.3d 449 (Ark. App. 2005); *Southeast Ark. Human Dev. Ctr.*, 99 Ark. App. 257 S.W.3d 554 (Ark. App. 2007); *Revere Copper & Brass, Inc., v. Tally*, 7 Ark. App. 234, 647 S.W.2d 477 (Ark. App. 1983).

In *Aluminum Co. of America v. Henning*, 260 Ark. 699, 543 S.W.2d 480 (1976), the Arkansas Supreme Court (in an opinion in which renowned Arkansas Justices George Rose Smith and C.J. Harris participated) provides a refreshingly detailed, articulate and instructive recitation of the law of controversion which includes the purposes and rationale underlying the determination, as well as what factors should be considered in making the determination a claim has been controverted. In *Henning* the court “rejected the mechanistic construction of the act that would permit an employer, or carrier, to refuse compensation until after the employee has been forced to employ an attorney and then escape liability for the attorney’s fees by formally advising the commission that it will not controvert the claim asserted by that attorney.” *Henning*, 543 S.W.2d 480, 487.

The *Henning* court also explained that when the Commission finds a claim has been controverted in whole or in part the respondents are only responsible for the amount of the controverted compensation; and, furthermore, even when the Commission finds the respondents have not controverted the claim, but further finds the claimant’s attorney has provided *bona fide* legal services in the claim, “the Commission shall direct the payment of such fees out of the compensation awarded...And in any case where attorney’s fees are allowed by the Commission, the limitations expressed in the first sentence herein [*Ark. Code Ann.* Section 81-1332 (Repl. 1960), now *Ark. Code Ann.* Section 11-9-715(a)(1)(B) (2025 Lexis Repl.)] shall apply. *Henning*,

243 S.W.2d 480, 485 (Bracketed material added).

Citing the well-recognized and highly respected persuasive authority, *Larson on Workman's Compensation Law*, the *Henning* court goes on to explain the purposes underlying a finding requiring the respondents to pay the employee's/claimant's attorney's fees "serves legitimate social purposes. Among them are discouraging oppressive delay in recognition of liability, deterring arbitrary or capricious denial of claims, and insuring the ability of necessitous claimants to obtain adequate and competent legal representation." *See, 3 Larson, Workman's Compensation Law*, 15-584 through 15-611, Sections 83.10 – 83.13 (1976); Note, *Workmen's Compensation – Attorney's Fees and Amount of Recovery*, 8 Ark. L. Rev. 195." *Henning*, 243 S.W.2d 480, 485.

It should also be noted that the mere fact payment of benefits is delayed does not constitute controversion *per se* and there are other factors the Commission may and should consider in determining whether the claimant's attorney's services were necessitated by the actions of the claimant or the respondent. *See, Ridgeway Pulpwood v. Baker*, 7 Ark. App. 214, 646 S.W.2d 711 (Ark. App. 1983); *Henning, supra*; *Hamrick v. Colson Co.*, 271 Ark. 740, 610 S.W.2d 281 (1981). (And *see*, RX3 at 4-5).

In summary, the Commission's determination as to whether or not the respondents have controverted a claim requires a factual analysis of both the respondents' and claimant's conduct, as well as the necessity of litigation. *Henning, supra*; *Tyson's Foods, Inc. v. Fatheree*, 16 Ark. App. 41, 696 S.W.2d 782 (1985); *Talley, supra*. Moreover, one (1) of the primary purposes of awarding attorney's fees is to place the economic burden of litigation on the party that made the litigation necessary. *Lee, supra*. (And *see*, CX3 at 1).

The relevant facts in this case are undisputed. (See “Stipulations”, *supra*, and JX 1 at 1-3). The sole issues for determination herein are whether the respondents controverted this claim for the purpose of being responsible for payment of the claimant’s attorney’s fee; and if they did controvert the claim, to what extent, if any, the claimant’s attorney is entitled to a fee. Based on the applicable law as applied to the facts of this case and explained in more detail, *infra*, I am compelled to find the claimant has met his burden of proof in demonstrating the respondents controverted the compensability of his claim which necessitated his hiring an attorney and, therefore, his attorney is entitled to a fee on the controverted TTD benefits.

It is undisputed the claimant sustained an injury on March 21, 2025, when he was sprayed in the face with pepper spray during a training exercise and that he suffered a brain bleed/stroke resulting in “sudden left sided paralysis of the upper extremity, left sided facial droop and tongue deviation to the left with dysarthria” and he was diagnosed with “acute intraparenchymal hematoma in the right basal ganglia measuring up to 4.0 cm”. (JX1 at 1, Stipulated Fact 1). Relevant medical records reveal that very soon after he was sprayed with the pepper spray the claimant began complaining of a severe headache and neck pain which necessitated a visit to the CHI St. Vincent emergency room (ER) in Hot Springs. (Claimant’s Exhibit 2 at 1-2).

The respondents were immediately aware of the injury and filed a Form AR-1, “First Report of Injury”, on March 24, 2025. (Respondents’ Exhibit 2 at 1). At this time the respondents became aware of the injury and they had a duty and obligation to conduct a good faith investigation of the incident and alleged injury to determine whether the injury met the Act’s requirements for a

“compensable” injury *before* they filed their initial Form AR-2 accepting or denying the claim and stating their reasons therefor.

The facts necessary to establish a compensable injury were and are well known to the respondents. For any specific-incident injury to be compensable, at a hearing the claimant must prove by a preponderance of the evidence that his injury: (1) arose out of and in course of his employment; (2) caused internal or external harm to his body that required medical services; (3) is supported by objective findings, medical evidence, establishing the alleged injury; and (4) was caused by a specific incident identifiable by time and place of occurrence. *Ark. Code Ann.* § 11-9-102(4); *Cossey v. Gary A. Thomas Racing Stable*, 2009 Ark. App. 666, at 5, 344 S.W.3d 684, 687 (Ark. App. 2009). The claimant bears the burden of proving the compensable injury by a preponderance of the credible evidence. *Ark. Code Ann.* § 11-9-102(4)(E)(i); and *Cossey, supra*.

Moreover, of course, at the hearing the claimant must prove a causal relationship exists between his employment and the alleged injury. *Wal-Mart Stores, Inc., v. Westbrook*, 77 Ark. App. 167, 171, 72 S.W.3d 889, 892 (Ark. App. 2002) (citing *McMillan v. U.S. Motors*, 59 Ark. App. 85, 90, 953 S.W.2d 907, 909 (Ark. App. 1997)). *Objective medical evidence is not always essential to establish a causal relationship between the work-related accident and the alleged injury* where objective medical evidence exists to prove the existence and extent of the underlying injury, and a preponderance of other nonmedical evidence establishes a causal relationship between the objective findings and the work-related incident in question. *Flynn v. Southwest Catering Co.*, 2010 Ark. App. 766, 379 S.W.3d 670 (Ark. App. 2010) (Emphasis added). “Objective findings” are those findings which cannot come under the voluntary control of the patient. *Ark. Code Ann.*

§ 11-9-102(16)(A); *Long v. Wal-Mart Stores, Inc.*, 98 Ark. App. 70, at 80, 250 S.W.3d 263, at 272 (Ark. App. 2007).

In this case it is abundantly clear the claimant's injury undoubtedly met the first three (3) requirements of the Act's definition of a compensable injury at the time the March 21, 2025, pepper spray incident occurred. The only reasonable question remaining was whether the claimant's injury – the stroke/brain bleed – was causally related to the subject March 21, 2025, pepper spray incident. Consequently, after receiving notice of the incident and alleged injury one would reasonably expect the respondents to have immediately taken any and all investigatory steps necessary for them to make an informed decision concerning causation and, therefore, compensability *before* they file their initial Form AR-2. Investigating the injury would consist of affirmative actions like taking the claimant's recorded statement as soon as he was able to give one; interviewing any witness(es); asking the claimant to sign a medical authorization so the respondents could receive any and all relevant medical records relating to the March 21, 2025, pepper spray incident; speaking to his doctor(s) and other healthcare providers, etc. *If* the respondents took any or all of these or other actions; and *if* the respondents allege the claimant failed to cooperate in their investigation before they filed their initial Form AR-2 on April 1, 2025, summarily denying the claim, the record is completely devoid of any evidence demonstrating either of these scenarios (RX2 at 2; JX1 at 2-3).

The respondents contend they did not have the documentary evidence necessary to establish causation/compensability until after the claim was denied, the claimant hired an attorney and filed

a Form AR-C, discovery was conducted, the hearing/litigation process had been initiated, and they obtained a second opinion from Dr. Counce after which they reversed their initial position and accepted the claim as compensable by filing an amended form AR-2 on October 8, 2025. (RX3 at 1-3; JX1 at 3, Stipulated Fact 22). This amended Form AR-2 finally accepting the claim as compensable was filed some two (2) months after the claimant’s attorney requested a hearing, and some 201 days after the claimant required and received emergency medical treatment following the pepper spray incident. (CX2 at 22; CX3 at 3).

Ark. Code Ann. Section 11-9-803 (2025 Lexis Replacement) is entitled “Controversion of right to compensation.” Section (a)(1) of this statute requires any employer who controverts a claim to file a form with the Commission advising in pertinent part that they are controverting the claim and to state their grounds for controverting the claim within 15 days of the date they received notice of the alleged work-related injury or death. Section (b)(1) of this statute goes on to state:

(b)

- (1) If an employer is unable to obtain sufficient medical information as to the alleged injury or death within fifteen (15) days following receipt of notice, although the employer has acted in good faith and with all due diligence, the employer may apply in writing for an extension of time for making payment of the first installment or controverting the claim.

In Sections (b)(2)-(3) this statute goes on to require the written application for an extension of time to be post-marked within the immediately aforementioned 15-day period, and states the Commission has the discretion to grant the extension request and to set a deadline for the employer’s response. In Section (b)(4) the statute states that the fact the employer applies “for an extension shall not be deemed to be a controversion of the claim.” Therefore, if the respondents

needed additional time to investigate the claim before filing their initial Form AR-2 summarily denying it, pursuant to the immediately foregoing statute they simply had to submit a written request for an extension of time to file the Form AR-2. The record reveals such a request for an extension was never filed.

And while the respondents contend they could not accept the subject claim as compensable since they did not have a medical opinion relating the claimant's stroke/brain bleed to the subject March 21, 2025, pepper spray incident until they received Dr. Counce's second opinion on September 24, 2025 (RX3 at 1-3), since objective medical evidence is not essential to establish a causal relationship between the work-related accident and the alleged injury(ies) where objective medical evidence exists to prove the existence and extent of the underlying injury(ies), and a preponderance of other nonmedical evidence establishes a causal relationship between the objective injury(ies) and the work-related incident in question, it is questionable that a doctor's opinion concerning causation was even necessary given the known facts and circumstances of this claim as established in the record. *See, Flynn, supra.*

In addition to contending they did not "controvert" this claim, the respondents also contend there was no "award" of benefits and, therefore, no attorney's fees are or can be owed. (RX3 at 5-7). Respectfully, this is not only inconsistent with the law of controversion and the numerous cases cited, *supra*, if this truly was the law then *no claim could ever be deemed controverted* before a hearing was held and an opinion awarding benefits was issued and filed.

The only reasonable and equitable opinion that is consistent with the law of controversion cited above is that the respondents in fact controverted this claim for purposes of being deemed liable for payment of the claimant's attorney's fee based on any and all benefits owed to the claimant pursuant to the Act beginning from the date of the claimant's injury, March 21, 2025. The respondents' filing of the amended Form AR-2 on October 8, 2025, came too late to avoid a finding of controversion on these facts. To find otherwise would be to essentially hold that respondents need conduct little or no investigation before denying a claim; would be contrary to the purposes set forth in *Henning, supra*; and would ignore the fact that in this case and based on the facts of record *but for* the involvement of the claimant's attorney herein the respondents more likely than not would never have accepted the claimant's injury as compensable and paid medical and indemnity benefits.

Indeed, all one need do is to review the 22 stipulated facts contained in JX1, as well as the undisputed facts stated in both parties' post-trial briefs (CX3 and RX3) to see the claimant's attorney put a great deal of time and effort into handling this claim – *and essentially did everything necessary to litigate the claim* – from the date he was hired in April 2025 until the date the respondents finally accepted the claim as compensable on October 8, 2025. Again, as the record reveals, *but for* the good and hard work of the claimant's attorney more likely than not the respondents would never have accepted this claim as compensable.

Consequently, based on the specific facts of this claim and consistent with the law of controversion as set forth in detail, *supra*, a finding of controversion and award of an attorney's fee is the only legal, fair and equitable decision an objective trier of fact could reach in this matter. *See,*

Anthony Steen, AWCC No. H501849

Henning, Talley, Lee, Hamrick, Tyson's Foods, Ridgeway Pulpwood, et al, supra. Remember and please note what our supreme court said in *Henning* when the court stated it:

...[R]ejected the mechanistic construction of the act that would permit an employer, or carrier, to refuse compensation until after the employee has been forced to employ an attorney and then escape liability for the attorney's fees by formally advising the commission that it will not controvert the claim asserted by that attorney.

Henning, 543 S.W.2d 480, 487. (Bracketed material added).

Finally, consistent with one (1) of the primary purposes of awarding attorney's fees, a finding of controversion and award of any attorney's fee in this specific case places the economic burden on the party that made the litigation necessary: here, based on the specific facts of record, the respondents. *Lee, supra.* (And *see*, CX1 at 1).

Therefore, for all the aforementioned reasons I hereby make the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The stipulations set forth in the prehearing order filed October 23, 2025, and the stipulations set forth in the stipulated facts document contained in the record as Joint Exhibit 1 hereby are accepted as facts.
2. The claimant has met his burden of proof in demonstrating the respondents controverted the compensability of this claim for the purpose of being deemed liable for the payment of an attorney's fee from the stipulated date of injury of March 21, 2025, through the date they finally accepted the injury as compensable, October 8, 2025.
3. Pursuant to *Ark. Code Ann.* Section 11-9-715(B) (2025 Lexis Supplement), the claimant's attorney is entitled to the maximum statutory attorney's fee based on any and all TTD benefits owed and/or paid to the claimant after the date of his March 21, 2025, compensable injury and continuing through the end of the claimant's healing period.

AWARD

The respondents hereby are directed to pay the claimant's attorney's fee in accordance with the "Findings of Fact and Conclusions of Law" set forth above and in *Ark. Code Ann.* Section 11-9-715(B). All accrued sums shall be paid in lump sum without discount, and this award shall earn interest at the legal rate until paid pursuant to *Ark. Code Ann.* Section 11-9-809, and *Couch v. First State Bank of Newport*, 49 Ark. App. 102, 898 S.W.2d 57 (Ark. App. 1995); *Burlington Indus., et al v. Pickett*, 64 Ark. App. 67, 983 S.W.2d 126 (Ark. App. 1998); and *Hartford Fire Ins. Co. v. Sauer*, 358 Ark. 89, 186 S.W.3d 229 (2004).

IT IS SO ORDERED.

Mike Pickens
Administrative Law Judge

MP/mp